THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 496 OF 2007

Dated 2nd August, 2007

Between:

M/s Canfel Pet Clinic,
represented by its Doctor, Mr.M.Praveen Kumar,
Veterinary Physician and Surgeon,
Ground Floor, Flat No.3, Al-Habeeb Building,
Somajiguda, Hyderabad.

…Petitioner.

And

Government of Andhra Pradesh,
represented by Principal Secretary,
Municipal Administration, Secretariat,
Government of Andhra Pradesh,
Hyderabad and others.

…Respondents.

ORAL ORDER:

In this writ petition, the petitioner seeks a declaration that the notice dated 22.11.2006 issued by the Assistant Director, Circle-IV &V, Veterinary Section, Municipal Corporation of Hyderabad, Hyderabad is illegal and arbitrary.

The petitioner is running a pet clinic in the premises bearing House No.6-3-669/A/H/3 and Flat No.3 of 'Kanti Sikhara Complex' at Somajiguda, Hyderabad. Based on a complaint given by a resident of the complex, earlier, notice dated 12.9.2006 was issued asking the petitioner to stop his trade and close down the pet clinic in the premises bearing Flat No.4, H.No.6-3-669/H/5, Opp. Kanti Sihara Complex, Ground Floor, Al-Habeeb Apartments, Somajiguda, Hyderabad. In the said notice, it was alleged that running of Dog Clinic in the said premises is causing nuisance and health hazard to the residents of the complex. Aggrieved thereby, the petitioner approached this court by filing Writ Petition No.19039 of 2006, and, this court, on finding that the earlier direction was issued without prior notice and opportunity, disposed of the said writ petition directing the respondents to treat the said notice as a show-cause notice and permitted the petitioner to raise all objections. It is stated that after objections are filed, the notice impugned in this writ petition is issued. In the impugned notice, it is stated that running of a pet clinic without obtaining a valid licence is illegal and unauthorized. Further, it is stated that running of such a clinic in the residential area poses threat of spreading of diseases from dogs to human beings (Zoonotic diseases) and there is also a threat of health hazard apart from nuisance to the public.

It is the case of the petitioner that when the earlier notice was issued on 12.9.2006, respondents themselves have stated that for

such trade, no licence will be issued by the Municipal Corporation of Hyderabad. In that view of the matter, it is not open for the respondents to issue the impugned notice for the closure on the ground that there is no licence obtained by the petitioner.

On the other hand, it is submitted by the learned Standing Counsel appearing for the respondents that in view of the nature of operations being undertaken by the petitioner, there is a danger to the life and health of the residents of the locality and the said trade is also creating nuisance. In that view of the matter, it is not open for the petitioner to run such operations without possessing valid licence under Section 521 of the Hyderabad Municipal Corporations Act.

Under Section 521 of the Hyderabad Municipal Corporations Act, certain trades and operations are prohibited except under and in conformity with the terms and conditions of a licence granted by the Commissioner. Clauses (d), and (e) (i) and (ii) of sub-section (1) of Section 521 of Hyderabad Municipal Corporation Act read thus:

> " 521. Certain things not to be kept and certain trades and operations not to be carried on, without a licence:- (1) Except under and in conformity with the terms and conditions of a licence granted by the Commissioner no person shall----
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> (a) to (c)..... ....
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> (d) keep or allow to be kept in or upon any premises, horses, cattle or other four footed animals –
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> (i) for sale;
>
> (ii) for letting out on hir;
>
> (iii) for any purpose for which any charge is made or any remuneration is received; or
>
> (iv) for sale of any produce thereof;
>
> (e) carry on, allow to be carried on, in or upon any premises---
>
> (i) any of the trades or operations connected with trade specified in Part-IV of Schedule 'P';
>
> (ii) any trade or operation which in the opinion of the Commissioner is dangerous to life, health or property, or likely to create a nuisance either from its nature, or by reason of the manner in which, or the conditions under which, the same, is or is proposed to be carried on;"

From a reading of the above, it is clear that for keeping or allowing to be kept in or upon any premises, horses, cattle or other four-

footed animals for any purpose for which any charge is made or any remuneration is received or for carrying on or allow to be carried on in or upon any premises any trade or operation which in the opinion of the Commissioner is dangerous to life, health or property, or likely to create a nuisance, a licence is necessary. Therefore, unless the petitioner possesses valid licence, the petitioner is not eligible to run said clinic, as, according to the respondents, there is danger to life and health of the public in view of likelihood of spreading of diseases from dogs to human beings apart from nuisance to the public. In that view of the matter, I do not find any illegality in issuing the impugned proceedings, which warrants interference.

But, however, there cannot be any objection even for considering the request of the petitioner for grant of licence as contemplated under Section 521 of the Hyderabad Municipal Corporations Act. Therefore, if any application is made by the petitioner for grant of licence, the same shall be considered in accordance with the provisions of the Hyderabad Municipal Corporations Act and the rules made thereunder.

Subject to above direction, the writ petition is disposed of. No costs.

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2-8-2007

R.SUBHASH REDDY, J.

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